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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/694,378	10/27/2003	Roland Eichhorn	16578	5449

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EXAMINER

HURLEY, SHAUN R

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 05/03/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/694,378

Applicant(s)

EICHHORN ET AL.

Examiner

Shaun R Hurley

Art Unit

3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-11 and 13-18 is/are rejected.
- 7) ☒ Claim(s) 7 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/18/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 4 and 10 is objected to because of the following informalities:

Claim 4, line 2, the phrase "said the" should read --said--

Claim 10, line 2 recites a "rope apparatus" which has not previously been claimed.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 9 and 10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

4. Regarding claim 9, the multiple uses of the term "preferably" render the claim indefinite because it is unclear whether the limitation(s) following the term are part of the claimed invention. See MPEP § 2173.05(d).

Regarding claim 10, it is unclear how the reinforcement element can be arranged in an interior of the rope apparatus between fibers of said ropes and said rope sheathing, or likewise how the reinforcement element can be arranged as a coating within said rope sheathing, since claim 1 specifically requires the reinforcement element to be exposed at an outer surface of the rope assembly.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-6, 10, and 13-18 are rejected under 35 U.S.C. 102(b) as being anticipated by St. Germain.

St. Germain teaches a synthetic fiber rope assembly (Figure 1) comprising at least two ropes (Figure 5; details 7, 8) each formed of synthetic fiber strands (Column 2, lines 63-65) and extending generally parallel in a lengthwise direction at a predetermined distance from each other, a dumbbell shaped rope sheathing (Figure 5; detail 5) forming a fixed link between said at least two ropes, and at least one reinforcement element (10) attached as an integral component of the rope sheathing (9), having an oblong shape and extending in a lengthwise direction, enveloping the rope sheathing in a tubular form, and exposed at an outer surface of the rope assembly for mechanically reinforcement, wherein the reinforcement element overlaps itself in the lengthwise direction (Figure 1 shows the cord overlaps itself at the end; likewise, the sheath/reinforcement element extend the length of the rope assembly, in the shape of an oblong tube).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 8, 9, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over St. Germain in view of Schuerch (4534163).

St. Germain essentially teaches the invention as discussed above, but fails to specifically teach the different types of sheaths capable of being used to protect the ropes. Schuerch teaches that braided sheaths are well known as a source of protection to inner rope structures. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to utilize a braided sheath as taught by Schuerch, so as to provide protection in a more efficient manner. A braid is able to conform to the shape of the core within it, enabling the sheath to more exactly cover the core without slack. The ordinarily skilled artisan would have appreciated this and known to use the sheath as taught by Schuerch. Likewise, Schuerch teaches that materials such as nylons and other plastics may be used as outer coverings. The ordinarily skilled artisan would have understood this teaching and known that a well known plastic such as polyester would provide the necessary strength and protective qualities required of the braid, and as a result, would have utilized a polyester in the braid of the invention.

Allowable Subject Matter

9. Claims 7 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Coleman et al (4724929), Onuma et al (5605036), O'Donnell et al (5881843), De Angelis (6508051), and Prewo et al (6672046) all teach what is well known in the rope art.

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11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shaun R Hurley whose telephone number is (571) 272-4986. The examiner can normally be reached on Mon - Fri, 6:30 am - 3:00 pm, off second Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J Calvert can be reached on (571) 272-4983. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SRH
26 April 2005


JOHN J. CALVERT
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700